

FEDERAL AGENCY AUTHORITIES FOR IMPLEMENTING CALFED BAY-DELTA PROGRAM

The CALFED Preferred Program Alternative contains eight program areas: (1) levee system integrity; (2) water quality; (3) ecosystem restoration; (4) water use efficiency; (5) water transfer; (6) watershed; (7) storage; and (8) conveyance. Within each of these program areas, specific activities are identified to be undertaken. The Federal agencies participating in the CALFED Bay-Delta Program have a variety of authorities, described below, to implement the range of activities that CALFED will pursue in FY 2000 and 2001. The following is not a comprehensive listing of existing authorities, but instead provides examples of the numerous existing authorities upon which Federal agencies participating with the CALFED Program rely.

LEVEE SYSTEM INTEGRITY

The CALFED's Proposed Levee System Integrity Program calls for substantial improvement in Delta and Suisun Marsh levees. Delta levees should meet Corps of Engineers P.L. 84-99 standards. Levee subsidence control program should use current best management practices to correct subsidence adjacent to levees. The CALFED agencies will perform a risk assessment to quantify major risks to the Delta levees. Levee system improvements will be closely coordinated with ecosystem restoration and other program activities.

The CALFED anticipates that most of the Delta levee work will be done by the California Department of Water Resources (DWR) in conjunction and consultation with local reclamation districts and the Corps of Engineers. Authorization for the Corps' current participation is found through its Continuing Authorities Program authorized by the Flood Control Acts of 1946, 1948, and 1954, and the Water Resources Development Acts of 1986 and 1996. In addition the Central Valley Project Improvement Act (CVPIA) (subsection 3406(g), among other things, directs the Secretary of the Interior, in cooperation with the State of California and other relevant interests and experts, to develop models and supporting scientific data concerning levee setbacks. The Fish and Wildlife Coordination Act (16 U.S.C. 661-667) provides for Federal agencies to incorporate fish, wildlife and habitat conservation in water resource development projects.

WATER QUALITY

The CALFED Water Quality Program is expected to commit to making continuous improvements to the water quality of the Bay-Delta system. The program includes actions to:

- improve drinking water by reducing loads of bromide, total organic carbon, pathogens, nutrients, and other compounds by reducing contaminants in source water, supporting alternative sources of water treatment, storage, and, if necessary, conveyance;
- reducing pesticides through use of best management practices;
- reducing salinity toxic compounds such as trace metals, selenium, and mercury; and
- reducing turbidity and sedimentation.

Several Federal CALFED agencies are authorized to participate in this effort. For example, the Environmental Protection Agency (EPA) has authority to undertake this work under the auspices of the Clean Water Act and the 1996 Amendments to the Safe Drinking Water Act. Many of the funds EPA provides to the State through the State Revolving Fund are specifically authorized to be used by California to support these programs. In addition, CVPIA authorizes Interior to improve wastewater management and reduce drainage problems associated with CVP irrigated lands through a land retirement program. The U.S. Geological Survey (USGS) is authorized to conduct studies and research on water quality under its Organic Act of 1879, as amended (43 U.S.C. 31 et seq.).

ECOSYSTEM RESTORATION

The Proposed CALFED Ecosystem Restoration Program identifies programmatic activities to restore, rehabilitate, or maintain ecological processes, habitats, and species throughout the Bay-Delta watershed. The Strategic Plan for Ecosystem Restoration identifies nearly 100 restoration objectives and an adaptive management approach based on monitoring responses to projects. Specific activities include:

- assuring adequate flows in streams and rivers by acquiring water from willing sellers;
- restoring and maintaining diverse habitats;
- reconnecting Bay-Delta tributaries and their flood plains;
- modifying and/or eliminating fish barriers; and
- screening unscreened diversions.

The California Bay Delta Environmental Enhancement and Water Security Act (P.L. 104-333) authorizes all agencies participating in the CALFED Bay-Delta Program to develop and implement ecosystem restoration elements of the long term Bay-Delta Program. The CVPIA gives broad authority to the Secretary of the Interior to address identified adverse environmental impacts of the CVP. In addition, the Fish and Wildlife Service has broad authorities under the Fish and Wildlife Act of 1956, as amended, (16 U.S.C. 742 et seq.), Section 5 of the Endangered Species Act, the Fish and Wildlife Coordination Act, and the Migratory Bird Conservation Act (16 U.S.C. 715 et seq.) to conserve and manage fish and wildlife habitat, including acquiring lands for these purposes. The Anadromous Fish Conservation Act authorizes the Secretary to undertake various actions, including stream clearance and habitat restoration, to benefit anadromous fish. The Natural Resources Conservation Service (NRCS) implements a variety of soil, water, and wetland conservation programs to assist local communities in better managing their natural resources under the auspices of the Federal Agriculture Improvement and Reform Act of 1996 (1996 Farm Bill). The EPA also has authority under the Clean Water Act to make grants and/or loans to State, Tribal, and local governments to plan and implement various water quality management activities including wetlands protection.

WATER USE EFFICIENCY

The CALFED Water Use Efficiency Program proposes to encourage agricultural and urban water users to use existing and new water supplies more efficiently. The program builds on existing work of the California Agricultural Water Management Council and the California Urban Water Conservation Council. The program has identified potential recovery of more than 1.4 million acre-feet of currently unrecoverable water annually by 2020. Specific actions include urban and agricultural conservation incentives, establishing agricultural water conservation measures and urban conservation certification programs, and expanding grant programs for technical assistance in support of local and regional waste water recycling.

The Reclamation Reform Act (Section 210) directs the Secretary of the Interior to encourage the efficient use of water by Reclamation contractors, while the CVPIA directs the Secretary of the Interior to develop criteria for "the purpose of promoting the highest level of water use efficiency reasonably achievable by project contractors using best available cost-effective technology and best management practices" (CVPIA 3405(e)). The P.L. 102-575- Title XVI, Reclamation Waste Water and Groundwater Study and Facilities Act of 1992, as amended, authorizes Reclamation to fund specific waste water recycling projects designated and approved by Congress, subject to certain conditions and criteria. Several approved urban waste water recycling projects are under construction in the CALFED service area and are an important part of the overall program.

WATER TRANSFERS

The CALFED Water Transfer Program proposes a number of activities that will facilitate water transfers and further develop a state-wide water transfer market. Specifically, the Program proposes establishing, among other things, a California Water Transfer Information Clearinghouse to provide public information on proposed and actual transfers. State and Federal agencies would also clarify and publicize guidelines for approving and assisting in conveyance of water transfers.

The CVPIA (Section 3405(a)) authorizes transfer of all or a portion of the Central Valley Project water provided under Reclamation contract to any other California water user or water agency. The CVPIA further sets conditions and requirements under which the Secretary is to review and approve such transfers.

WATERSHEDS

The CALFED Watershed Program would assist local watershed programs by providing financial and technical assistance to develop and implement projects that benefit the Bay-Delta system. The Program proposes to support local watershed activities by implementing watershed restoration, maintenance, and conservation activities, and by developing watershed monitoring and assessment protocols.

The Clean Water Act (Sections 319 and 303) provides broad authority for the Environmental Protection Agency to support state and local programs and other entities to improve the health of the Nation's waters. Section 319 authorizes assistance to states to address non-point source pollution problems. Section 303 authorizes assistance for continuous planning to set and meet water quality objectives and standards. Section 323 of the Fiscal Year 1999 Department of the Interior Appropriations Act (Omnibus Consolidated Appropriations Act, P.L. 105-277, 112 Stat. 2681-290) and the Forest Service Cooperative Agreements Act authorizes the Forest Service to assist local efforts in managing watersheds on private lands. The 1996 Farm Bill also authorizes the NRCS to assist local efforts to manage watersheds on private lands.

The CVPIA (Section 3406 (b)(1)) authorizes the Secretary of the Interior to develop and implement programs to improve fish habitat and to address adverse environmental impacts of the CVP not otherwise specifically addressed in the Act. The Fish and Wildlife Service has broad authority under the Fish and Wildlife Act of 1956 (16 U.S.C. 742 f(a)(4)), as amended, and the Fish and Wildlife Coordination Act to undertake activities to conserve and manage wildlife resources and their habitats.

STORAGE

Storage is part of the proposed CALFED Water Management Strategy. The strategy includes an Integrated Storage Investigation (ISI) that is a comprehensive assessment of groundwater storage, surface water storage, hydropower reoperations, and fish passage barriers. The strategy also includes assessments of the progress of the water use efficiency, water reclamation, and water transfer programs. Decisions to construct groundwater and/or surface water storage will be predicated on complying with all program linkages.

The CVPIA (Section 3406 (g)) authorizes the Secretary to develop, among other things, models and supporting data to support improved scientific understanding concerning conjunctive use opportunities and development of off stream storage. While Reclamation can evaluate certain storage options under existing authorities, preparation of site-specific feasibility studies will require additional authorization. The Fish and Wildlife Coordination Act requires incorporation of fish, wildlife and habitat conservation in the development, review and implementation of water resource projects.

CONVEYANCE

The proposed CALFED conveyance strategy uses a through-Delta approach to conveyance to improve Delta water quality, improve ecosystem health, and reduce the risk of catastrophic breaching of Delta levees. The proposed program calls for:

- construction of new screened facilities at Clifton Court Forebay and/or Tracy Pumping Facility;
- construction of an intertie and joint point of diversion for CVP and SWP;
- construction of operable barriers in Old River to protect migrating salmon;

- monitoring to assess water quality and fish population improvements; and
- if Water Quality Program measures are consistently not achieving drinking water quality goals, and evaluations demonstrate that a screened diversion of up to 4,000 cubic feet per second (cfs) would help achieve those goals without adversely affecting fish populations, a pilot screened diversion would be constructed.

The CVPIA (Sections 3406 (4) and (15)) directs the Secretary to take actions in the South Delta to mitigate water quality and fishery impacts associated with operation of the Tracy Pumping Plant. Further, the Fish and Wildlife Service has broad authority under the Fish and Wildlife Act of 1956, as amended, and the Fish and Wildlife Coordination Act to take such steps as needed to develop, conserve, and protect fish and wildlife and their habitat, including research and monitoring activities.